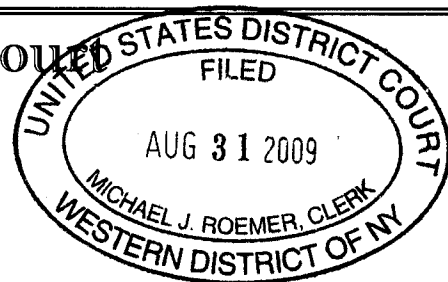


AO 91 (Rev. 02/09) Criminal Complaint

United States District Court  
for the  
Western District of New York



United States of America

v.

GURMIT SINGH

*Defendant*

Case No. 09-M-1087


**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about August 31, 2009, in Erie County, in the Western District of New York, the defendant, GURMIT SINGH, did knowingly, intentionally, and unlawfully import into the custom territory of the United States from a place outside thereof (to wit: Canada) approximately 160 kilograms of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance; the defendant did knowingly, intentionally and unlawfully conspire with others to import into the custom territory of the United States from a place outside thereof (to wit: Canada) approximately 160 kilograms of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance in violation of Title 21, United States Code, Sections 952(a) and 960(b)(2). All in violation of Title 21, United States Code, Section 963.

This criminal complaint is based on these facts:

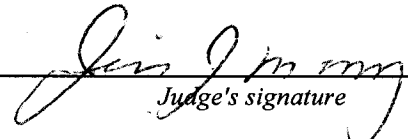
[SEE ATTACHED AFFIDAVIT]

  
Complainant's signature

Special Agent Aaron Pavlovic  
Drug Enforcement Administration  
Printed name and title

Sworn to before me and signed in my presence.

Date: 8/31, 2009

  
Judge's signature

City and State: Buffalo, New York

HONORABLE JEREMIAH J. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE  
Judge's printed name and title

AFFIDAVIT

STATE OF NEW YORK     )  
COUNTY OF ERIE        )     SS:  
CITY OF BUFFALO        )

AARON PAVLOVIC, a Special Agent for the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), being duly sworn in the manner provided by law, deposes and states as follows:

1) I am a Senior Special Agent ("SSA") with Immigration and Customs Enforcement ("ICE") in Buffalo, New York, and have been employed in that capacity since June 20, 2005. As a Special Agent employed by ICE, within Department of Homeland Security, I am an "Federal law enforcement officer", as defined in Rule 41(a) of the Federal Rules of Criminal Procedure, that is, a government agent authorized to enforce criminal laws and I am empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Title 21, United States Code, Section 841, et seq. During my law enforcement career, I have participated in investigations targeting the smuggling, trafficking, and distribution of narcotics. I am familiar with how controlled substances are obtained, diluted, packaged, distributed, sold, and used within the framework of drug smuggling operations/organizations.

2) I make this affidavit in support of a criminal complaint charging SINGH, Gurmit (DOB: 07/03/1969) with violations of Title 21, United States Code, Section 952 (importation of marijuana, a Schedule I controlled substance) and Section 963 (conspiracy to import marijuana, a Schedule I controlled substance). The information in this affidavit is based upon my personal knowledge of the facts contained herein, conversations with other law enforcement officers, and an examination of various documents and records involving this investigation. This affidavit is submitted for a limited purpose, and as such I have not included the details of all aspects of the investigation. The facts in support of this criminal complaint are as follows:

3) On Monday, August 31, 2009, at approximately 1:01 a.m. a tractor-trailer bearing Ontario, Canada, tractor license plate number 959 2PD, and Ontario, Canada, trailer plate number F8886H, attempted to enter the United States at the Peace Bridge port of entry (POE) in Buffalo, New York. The operator and sole occupant of the tractor-trailer was Gurmit SINGH, a citizen of India and resident of Canada.

4) The primary Customs and Border Protection (CBP) Officer encountered SINGH on August 31, 2009, at approximately 1:01 a.m. At this time, the primary CBP Officer, Alan Putman, asked SINGH what he was hauling across the border. SINGH replied that he did

not know what he was hauling and that they were just square boxes. CBP officer Putman then asked SINGH where he was traveling. According to CBP Officer Putman, SINGH appeared nervous and after a very long pause replied that he was traveling to Worcester, MA. CBP officer Putman then referred SINGH and the tractor-trailer he was operating to the Vehicle and Cargo Inspection System (VACIS) for a non intrusive secondary examination.

5) CBP Officer Kelsey advised CBP Officer Michael Leavell that the shipment was manifested as fire logs and fire starters. While utilizing the VACIS, CBP Officer Michael Leavell, noticed an anomaly in the cargo, inconsistent with the manifested commodity. CBP Officer Mark Maronski opened the unsealed doors to the trailer and entered to examine the shipment. Inside the trailer were several rows of pallets with small shoe box size cardboard boxes stacked approximately three (3) feet high. Upon crawling on top of the second and third row of stacked boxes, CBP Officers discovered six (6) large plastic sealed packages on the bottom of the second and third row of stacked boxes. The six (6) packages were shrink wrapped in white plastic. A physical examination of these six (6) packages revealed several smaller wrapped packages containing a green leafy substance appearing to be marijuana. Utilizing a Dugenois Levine Reagent 908 test the green leafy substance field tested positive for the presence of THC (marijuana). A total weight of approximately 355 lbs (160 kilograms) was discovered in the six (6) large plastic packages.

6) At approximately 1:30 a.m. Immigration and Customs Enforcement (ICE) Special Agents were notified of the narcotics seizure involving SINGH. Your Affiant and Special Agent (SA) Zabawa arrived at the Peace Bridge Port of Entry at approximately 2:20 a.m. Your Affiant advised SINGH of his Miranda Rights at approximately 2:45 a.m. SINGH agreed to speak with ICE Special Agents. Your Affiant and SA Zabawa began interviewing SINGH at approximately 2:55 a.m.

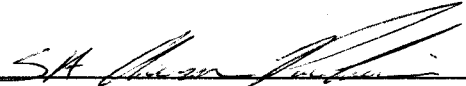
7) SINGH stated that he is a driver for Stream Express Inc. and that he has been employed in this capacity for approximately three months. SINGH stated that he left his residence at approximately 9:00 p.m. on August 30, 2009, to go to the trucking yard at 10862 Steeles Avenue East, Milton, Ontario to pick up his load. SINGH stated that when he arrived at the yard the tractor and trailer were already hooked up and loaded. At approximately 9:30 p.m. SINGH met with the owner of the company, later identified as Gurmail NIRMAN. At this time NIRMAN gave SINGH the keys to the tractor trailer and the manifest for the shipment. SINGH stated that soon after he met with NIRMAN he inspected the tractor and trailer. SINGH stated that he opened the unsecured doors to the trailer and inspected the pallets. SINGH stated that he then drove directly to the Peace Bridge Port of Entry, only stopping for a short period of time at the Duty Free shop in Canada to exchange money and order a coffee at Tim Horton's.

8) Upon review of SINGH's Driver's Daily Log Book it appeared to have been altered. The entry for Friday, August 28, 2009, was changed to read August 30, 2009. SINGH admitted that he tried to write over the date for this entry though he did not give a reason for doing so. SINGH stated that he delivered another load of cargo on Friday August 28, 2009, and that the trip was approximately 100 kilometers in duration. The starting mileage for the August 28, 2009 trip is written in the log book as 263,467. In the Driver's Daily Log book there is also an incomplete entry for the trip taking place on August 30, 2009. SINGH stated that he tried to quickly fill out the Driver's Daily Log Book after he crossed into the United States. The mileage on the tractor at the Peace Bridge POE reads 263,759. Based on a review of Google Maps, your Affiant determined that the road distance from the trucking yard to the Peace Bridge is approximately 128 kilometers. The difference between the ending mileage on SINGH's tractor and the starting mileage from the August 28, 2009 trip is 292. Even accounting for the 128 kilometers from the trucking yard and the alleged 100 kilometer trip SINGH said he took on August 28, 2009, there is still approximately 64 kilometers unaccounted for. Based on your Affiant's training and experience those who co-mingle narcotics with legitimate cargo will often make a detour from their normal route in order to load the narcotics on their trailer. The discrepancy in the number of kilometers that SINGH told your Affiant he traveled indicates that SINGH did not drive directly to the Peace Bridge Port of Entry as he stated to your Affiant.

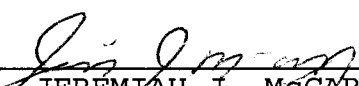
9) Based on records checks of the TECS computer system (formerly known as the Treasury Enforcement Communication System) it has been determined that Stream Express Inc. has been involved in numerous smuggling attempts both into and out of the United States. SINGH, Armijit (DOB: 01/26/1971), a driver for the company, was arrested at the Peace Bridge Port of Entry on 05/25/2006 after attempting to smuggle in 336 pounds of marijuana. MELENDEZ, Robert (DOB: 01/06/1970) was arrested on 03/02/2007 in Houston, TX after he was found to have 23 kilograms of cocaine in his possession. It was later found that MELENDEZ had an airline ticket in his name that was purchased by the Gurmail NIRMAN, the owner of Stream Express Inc. Subsequent interviews of defendants related to the above arrests indicated that the owner, Gurmail NIRMAIN is responsible for hiring drivers to smuggle narcotics into and out of the United States. Additionally, these defendants stated that they were aware they were smuggling narcotics on behalf of NIRMAIN.

**WHEREFORE** based on the foregoing, I respectfully submit that probable cause exists to believe that SINGH, Gurmit has violated Title 21, United States Code, Section 952 (importation of marijuana, a Schedule I controlled substance) and Section 963

(conspiracy to import marijuana, a Schedule I controlled substance).

  
AARON PAVLOVIC  
Special Agent  
U.S. Department of Homeland Security  
Immigration & Customs Enforcement

Sworn and subscribed to before me  
this 31<sup>st</sup> day of August, 2009.

  
HON. JEREMIAH J. MCCARTHY  
UNITED STATES MAGISTRATE JUDGE